

103^D CONGRESS
2^D SESSION

S. 1885

To amend the National Security Act of 1947 to provide a uniform framework for the classification and declassification of information in the interests of national security.

IN THE SENATE OF THE UNITED STATES

MARCH 2 (legislative day, FEBRUARY 22), 1994

Mr. DECONCINI (for himself and Mr. KERREY) introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

A BILL

To amend the National Security Act of 1947 to provide a uniform framework for the classification and declassification of information in the interests of national security.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Security Classification
5 Act of 1994”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents of the National Security Act
 3 of 1947 (50 U.S.C. 401 et seq.) is amended by adding
 4 at the end the following:

“TITLE VIII—CLASSIFICATION OF INFORMATION IN THE
 INTERESTS OF NATIONAL SECURITY

- “Sec. 801. Definitions.
- “Sec. 802. Classification criteria.
- “Sec. 803. Identification and marking of classified information.
- “Sec. 804. Authority to classify information.
- “Sec. 805. Duration of classification.
- “Sec. 806. Protection of classified information.
- “Sec. 807. Special access programs.
- “Sec. 808. Declassification, generally.
- “Sec. 809. Declassification pursuant to a request by a member of the public.
- “Sec. 810. Declassification of permanently valuable records of the Government
 for historical reasons.
- “Sec. 811. Special declassification reviews for topics of historical interest.
- “Sec. 812. Oversight.
- “Sec. 813. Sanctions.
- “Sec. 814. Implementation.
- “Sec. 815. Effect on information previously classified pursuant to Executive
 order.”.

5 **SEC. 3. AMENDMENT OF THE NATIONAL SECURITY ACT OF**
 6 **1947.**

7 The National Security Act of 1947 (50 U.S.C. 401
 8 et seq.) is amended by adding the following new title:

9 **“TITLE VIII—CLASSIFICATION**
 10 **OF INFORMATION IN THE IN-**
 11 **TERESTS OF NATIONAL SECU-**
 12 **RITY**

13 **“SEC. 801. DEFINITIONS.**

14 “As used in this title:

1 “(1) The term ‘agency’ has the meaning pro-
2 vided in section 552(f) of title 5, United States
3 Code.

4 “(2) The term ‘appropriate committees of the
5 Congress’ means the Committee on Governmental
6 Affairs of the Senate, the Committee on Government
7 Operations of the House of Representatives, the Se-
8 lect Committee on Intelligence of the Senate, the
9 Permanent Select Committee on Intelligence of the
10 House of Representatives, and, for purposes of re-
11 ceiving reports regarding specific categories of infor-
12 mation, such committees as may have jurisdiction
13 over the subject matter of such information.

14 “(3) The term ‘classified information’ means in-
15 formation that has been determined pursuant to this
16 title to require protection against unauthorized dis-
17 closure in the interests of national security.

18 “(4) The term ‘declassification’ means the au-
19 thorized change in the status of information from
20 classified to unclassified information.

21 “(5) The term ‘information’ means any knowl-
22 edge that can be communicated or documentary ma-
23 terial regardless of its physical form or characteris-
24 tics.

1 “(6) The term ‘international organization’
2 means an organization designated under section 1 of
3 the International Organizations Immunities Act (22
4 U.S.C. 288).

5 “(7) The term ‘national security’ means the na-
6 tional defense or foreign relations of the United
7 States.

8 “(8) The term ‘originating agency’ means, with
9 respect to information, the department, agency, or
10 entity of the United States (or any officer or em-
11 ployee thereof of acting in his official capacity) that
12 originates, develops, publishes, issues, or otherwise
13 prepares that information or receives that informa-
14 tion from outside the United States Government.

15 “(9) The term ‘security clearance’ means a de-
16 termination, by appropriate governmental authority,
17 based upon appropriate investigation, that a person
18 can with reasonable certainty be trusted to protect
19 classified information to which he or she may be
20 given access.

21 “(10) The term ‘unauthorized disclosure’ means
22 a communication or physical transfer of information
23 to an unauthorized recipient.

1 **“SEC. 802. CLASSIFICATION CRITERIA.**

2 “(a) IN GENERAL.—Information may be classified
3 under this title—

4 “(1) only if such information is owned by, pro-
5 duced by or for, or is under the control of the
6 United States Government; and

7 “(2)(A) only if it can be specifically dem-
8 onstrated that the public release of such information
9 could reasonably be expected to—

10 “(i) impair the ability of the United States
11 Government and its Armed Forces to defend
12 the United States from armed aggression, to
13 engage in armed conflict, or to participate in
14 peacekeeping or multinational operations
15 abroad;

16 “(ii) increase the vulnerability of the
17 United States Government personnel, installa-
18 tions, weapons technology, or related systems to
19 armed attack, loss or compromise, or measures
20 that would weaken their effectiveness or counter
21 their capabilities;

22 “(iii) damage relations between the United
23 States and another country or international or-
24 ganization, impede current diplomatic negotia-
25 tions, or reveal information provided in con-

1 fidence by another country or international or-
2 ganization;

3 “(iv) reveal intelligence sources and meth-
4 ods, including those related to covert actions
5 and cryptologic activities;

6 “(v) impair United States Government
7 programs from safeguarding nuclear weapons
8 or facilities;

9 “(vi) damage the ability of the United
10 States to relate or apply critical research or
11 technology to the national defense or foreign re-
12 lations of the United States; and

13 “(vii) impair the ability of the United
14 States Secret Service to provide protection to
15 designated persons as required by applicable
16 law; or

17 “(B) such information otherwise falls within a
18 category designated by the President, after consulta-
19 tion with the appropriate committees of the Con-
20 gress, the public release of which would, in a manner
21 that can be specifically demonstrated, damage the
22 national security of the United States and such in-
23 formation is not covered by any of the clauses of
24 subparagraph (A).

1 Categories designated under paragraph (2)(B) shall be
2 published in the Federal Register prior to their effective
3 date.

4 “(b) PROHIBITION.—In no case shall information be
5 classified pursuant to this section in order to—

6 “(1) conceal violations of law, inefficiency, or
7 administrative error;

8 “(2) prevent embarrassment to a person, orga-
9 nization, or agency;

10 “(3) restrain competition;

11 “(4) prevent or delay the release of information
12 that does not require protection in the interests of
13 national security;

14 “(5) control access to basic scientific research
15 information not clearly related to the national secu-
16 rity;

17 “(6) control information after it has been re-
18 leased to the public or a member thereof under prop-
19 er authority; or

20 “(7) prevent the public release of a compilation
21 of items of information which individually are not
22 classified.

1 **“SEC. 803. IDENTIFICATION AND MARKING OF CLASSIFIED**
2 **INFORMATION.**

3 “(a) CLASSIFICATIONS.—All information classified
4 pursuant to this title shall be clearly identified in an ap-
5 propriate fashion as either ‘TOP SECRET’ or ‘SECRET’,
6 in accordance with subsections (b) and (c).

7 “(b) ‘TOP SECRET’ CLASSIFICATION.—Classification
8 as ‘TOP SECRET’ shall be limited to information which
9 meets the criteria for classification established by sub-
10 section 802(a) of this title, whose disclosure to unauthor-
11 ized persons would have the most serious adverse con-
12 sequences for the national security, as determined in ac-
13 cordance with regulations to be issued by the President
14 pursuant to section 814 of this title.

15 “(c) ‘SECRET’ CLASSIFICATION.—Classification as
16 ‘SECRET’ shall apply to all other information which
17 meets the criteria for classification established by section
18 802(a).

19 “(d) ADDITIONAL INFORMATION.—All information
20 classified pursuant to this title shall also be marked in
21 an appropriate manner at the time of classification to pro-
22 vide the following information:

23 “(1) The agency and office of origin, if not oth-
24 erwise evident.

25 “(2) A date or event for declassification as-
26 signed pursuant to section 805.

1 “(3) A determination whether the document or
2 material contains information which falls within one
3 or more of the categories set forth in section 810(b).

4 “(e) MARKING PORTIONS FOR CLASSIFICATION.—
5 Each classified document shall, by marking or other
6 means, indicate which portions are classified and which
7 portions are unclassified and shall identify the classified
8 portions with the appropriate classification.

9 “(f) EXCLUSIVITY OF CLASSIFICATIONS.—Except as
10 provided by section 807 of this title, and the Atomic En-
11 ergy Act of 1954, no classifications other than those au-
12 thorized by this section shall be utilized to identify classi-
13 fied information.

14 **“SEC. 804. AUTHORITY TO CLASSIFY INFORMATION.**

15 “(a) EXECUTIVE BRANCH.—Information may be
16 classified only by originating agencies within the executive
17 branch of Government, in accordance with procedures pro-
18 mulgated by the President pursuant to section 814, and
19 only by persons authorized by such procedures to classify
20 information.

21 “(b) LEGISLATIVE AND JUDICIAL BRANCHES.—Doc-
22 uments or materials created by the legislative and judicial
23 branches of Government which contain classified informa-
24 tion originated by a department or agency of the executive
25 branch shall be assigned the same classification as was

1 assigned to the information by the department or agency
2 which originated the information concerned.

3 **“SEC. 805. DURATION OF CLASSIFICATION.**

4 “(a) DATE OR EVENT FOR DECLASSIFICATION.—At
5 the time a classification is made, the originating agency
6 of the information shall attempt to establish a specific
7 date or event for declassification of that information based
8 upon the expected duration of the national security sen-
9 sitivity of the information, and, if this can be done, shall
10 mark the material for declassification by that date, pursu-
11 ant to subsection 803(d)(2). The date or event shall not
12 exceed the time period prescribed in subsection (b)(1) or
13 subsection (b)(2), as the case may be.

14 “(b) DURATION OF CLASSIFICATIONS.—If the origi-
15 nating agency cannot determine a specific date or event
16 for declassification:

17 “(1) Classified information designated as ‘TOP
18 SECRET’ shall be marked for declassification no
19 later than 15 years from the date of the original de-
20 cision to classify the information.

21 “(2) Classified information designated as ‘SE-
22 CRET’ shall be marked for declassification no later
23 than 10 years from the date of the original decision
24 to classify the information.

1 “(c) APPLICATION OF CLASSIFICATION TO DERIVED
2 DOCUMENTS.—All documents or materials which contain
3 classified information derived from other classified docu-
4 ments or materials shall be marked with the same date
5 or event for declassification as the documents or materials
6 which were the source of the classified information con-
7 cerned. When multiple classified sources are used, the lat-
8 est of the dates assigned for declassification shall be ap-
9 plied.

10 **“SEC. 806. PROTECTION OF CLASSIFIED INFORMATION.**

11 “(a) ELIGIBILITY FOR ACCESS.—Except as otherwise
12 provided by subsections (d), (e), and (f), access to classi-
13 fied information shall be limited to persons who have re-
14 ceived a security clearance permitting such access and
15 only to the extent needed by such persons for the perform-
16 ance of an official governmental function.

17 “(b) CONTROL BY REGULATION.—In accordance with
18 section 814, the President shall issue regulations which
19 provide for a uniform system for the protection of infor-
20 mation classified pursuant to this title applicable to all ele-
21 ments of the executive branch of Government. These con-
22 trols shall ensure that classified information is used, proc-
23 essed, stored, reproduced, transmitted, and destroyed in
24 a manner that prevents access by persons who do not pos-
25 sess a security clearance and an official need for access

1 to such information. Such controls shall also require more
2 stringent security measures for the protection of informa-
3 tion classified as ‘TOP SECRET’, pursuant to section
4 803(b), than is required for the protection of information
5 classified as ‘SECRET’ pursuant to section 803(c).

6 “(c) LEGISLATIVE AND JUDICIAL BRANCHES.—The
7 legislative and judicial branches of Government shall
8 adopt the same or similar procedures to provide a com-
9 parable degree of protection for classified information pro-
10 vided by departments and agencies of the executive branch
11 of Government.

12 “(d) ACCESS BY ELECTED OFFICIALS AND JUDICIAL
13 APPOINTEES.—By virtue of their elected or appointed po-
14 sitions, the President and Vice President of the United
15 States, Members of Congress, and persons appointed by
16 the President to the Federal judiciary shall have access
17 to such classified information as may be needed for the
18 performance of their official duties without receiving a se-
19 curity clearance.

20 “(e) PERSONS NOT HOLDING SECURITY CLEAR-
21 ANCES.—In accordance with the regulations issued pursu-
22 ant to section 814, the President may permit access to
23 classified information to persons who do not have a secu-
24 rity clearance who are engaged in historical research, or
25 who previously occupied policymaking positions to which

1 they were appointed by the President, if appropriate meas-
2 ures are taken to preclude access by other persons who
3 have not been specifically authorized access under this
4 subsection.

5 “(f) FOREIGN GOVERNMENTS AND INTERNATIONAL
6 ORGANIZATIONS.—Whenever the President determines
7 that it would be in the interests of the United States to
8 permit access to classified information to a foreign govern-
9 ment or to an international organization, the President is
10 authorized to do so if such government or organization
11 agrees in advance to provide a comparable degree of pro-
12 tection to such information to preclude its disclosure to
13 unauthorized persons, and the President determines that
14 such government or organization is capable of providing
15 such protection.

16 **“SEC. 807. SPECIAL ACCESS PROGRAMS.**

17 “(a) AUTHORIZATION.—The President may author-
18 ize, in regulations issued pursuant to section 814, the es-
19 tablishment of special access programs by the Secretaries
20 of State, Defense, and Energy, or the Director of Central
21 Intelligence. The President may establish such programs
22 in any other department or agency of the executive branch
23 of Government if the President notifies the appropriate
24 committees of the Congress 30 days in advance.

1 “(b) REQUIREMENTS.—(1) Special access programs
2 under this section shall be created only where there is a
3 need, due to the national security sensitivity of the infor-
4 mation concerned, for a formal mechanism to establish an
5 official need for access to the information concerned and
6 for more stringent security measures than are applicable
7 to classified information generally to protect such informa-
8 tion.

9 “(2) To the extent possible, such special access pro-
10 grams shall not involve security requirements in addition
11 to those required for the protection of information classi-
12 fied as ‘TOP SECRET’ other than the creation of a list
13 of persons with appropriate security clearances who are
14 permitted access to the classified information covered by
15 the program for an official governmental purpose and such
16 mechanisms as may be necessary to implement such con-
17 trols.

18 “(3) Wherever an agency head determines that secu-
19 rity measures in addition to those which apply to informa-
20 tion classified as ‘TOP SECRET’ are necessary to protect
21 information within a special access program, such addi-
22 tional measures shall conform to and not exceed a single,
23 uniform set of security measures approved by the Presi-
24 dent, or the President’s designee, for this purpose.

1 “(4) Information protected within an authorized spe-
2 cial access program shall be designated only as ‘RE-
3 STRICTED’, and dissemination of such information shall
4 be limited to persons who have been authorized access to
5 such program by an appropriate official of the department
6 or agency concerned.

7 “(5) Each department or agency head authorized to
8 establish special access programs shall establish and main-
9 tain a system of accounting for such programs consistent
10 with regulations promulgated by the President, or the
11 President’s designee, for this purpose.

12 “(6) Such special access programs shall be subject
13 to oversight by the senior oversight official appointed by
14 the President pursuant to section 812, who shall be af-
15 forced such access to these programs as may be necessary
16 to perform his or her responsibilities.

17 “(7) Each department or agency head authorized to
18 establish special access programs pursuant to this section
19 shall ensure that each such program is reviewed annually
20 to determine whether it continues to meet the require-
21 ments of this section.

22 “(c) RULE OF STATUTORY CONSTRUCTION.—Noth-
23 ing in this section shall affect the provisions of section
24 119 of title 10, United States Code.

1 **“SEC. 808. DECLASSIFICATION, GENERALLY.**

2 “Information which is classified pursuant to this title
3 shall remain classified until one of the following has oc-
4 curred:

5 “(1) If a specific date or event has been as-
6 signed for declassification, the date or event as-
7 signed has occurred.

8 “(2) In response to a request from a member
9 of the public, submitted pursuant to section 552 or
10 552a of title 5, United States Code, or otherwise, for
11 documents or materials containing such information,
12 the head of the originating agency, or the agency
13 head’s designee for this purpose, has determined
14 that such information no longer meets the criteria
15 for classification established by this title in accord-
16 ance with section 809.

17 “(3) The information is contained in documents
18 or materials reviewed in accordance with section 810
19 or 811, and the head of the originating agency, or
20 the agency head’s designee for this purpose, has de-
21 termined that such information does not meet the
22 criteria for continued classification established pur-
23 suant to that section.

24 “(4) Such information has been declassified by
25 an appropriate authority within the executive branch
26 in accordance with this title.

1 “(5) Such information has been determined to
2 have been improperly classified by a court of com-
3 petent jurisdiction, and a final order has been issued
4 requiring the release of such information.

5 **“SEC. 809. DECLASSIFICATION PURSUANT TO A REQUEST**
6 **BY A MEMBER OF THE PUBLIC.**

7 “(a) DECLASSIFICATION REVIEW.—Except as pro-
8 vided by subsection (c), any document or material contain-
9 ing classified information which is requested by a United
10 States citizen or permanent resident alien, a Federal agen-
11 cy, or a State or local government, shall be subjected to
12 a review for declassification by the originating agency at
13 any time after the information has been created in accord-
14 ance with this section.

15 “(b) REFERRAL TO ORIGINATING AGENCY.—All re-
16 quests for declassification review which are received by a
17 department or agency which did not originate the informa-
18 tion concerned, or by an element of the legislative or judi-
19 cial branches, shall be referred to the department or agen-
20 cy of the executive branch which originated such informa-
21 tion, and the requester shall be apprised of such referral.

22 “(c) GROUNDS FOR DENIAL OF DECLASSIFICATION
23 REVIEW.—Any originating agency which receives a re-
24 quest to review classified information for declassification

1 pursuant to this section may decline to conduct such re-
2 view if—

3 “(1) the requester is unable to identify the doc-
4 ument or material concerned with sufficient specific-
5 ity to enable the originating agency to locate it with
6 a reasonable amount of effort; or

7 “(2) a review of the same document or material
8 has taken place within the last year, in which case
9 the requester shall be apprised of the results of the
10 previous review.

11 “(d) ELIGIBILITY FOR DECLASSIFICATION.—(1) For
12 purposes of the declassification reviews required by this
13 section—

14 “(A) information shall be declassified if it no
15 longer meets the criteria established by this title;
16 and

17 “(B) classified information shall be presumed to
18 no longer meet the criteria for classification estab-
19 lished by this title if, at the time of review, the date
20 or event assigned for declassification has passed, un-
21 less the agency head or senior agency official deter-
22 mines in writing, citing specific reasons, that the in-
23 formation concerned clearly continues to meet the
24 criteria for classification established by this title.

1 “(2) In the case of information described in para-
2 graph (1)(B), a new date shall be assigned for declassifica-
3 tion of the information concerned which shall not exceed
4 5 years from the date of such determination and the re-
5 quester shall be apprised of this determination.

6 “(3) Notwithstanding a determination that the infor-
7 mation requested continues to meet the criteria for classi-
8 fication pursuant to paragraph (1), an agency head or the
9 senior agency official shall declassify such information if
10 the public interest in disclosure of the information out-
11 weighs the national security interest in its continued clas-
12 sification.

13 **“SEC. 810. DECLASSIFICATION OF PERMANENTLY VALU-**
14 **ABLE RECORDS OF THE GOVERNMENT FOR**
15 **HISTORICAL REASONS.**

16 “(a) IN GENERAL.—In addition to the reviews re-
17 quired by section 809, departments and agencies which
18 originate classified information shall establish programs to
19 require review for declassification of all classified docu-
20 ments and materials which are at least 25 years old, which
21 are determined to constitute permanently valuable records
22 of the Government, prior to their being transferred to the
23 National Archives of the United States in accordance with
24 applicable law.

1 “(b) EXCEPTION.—Documents or materials subject
2 to the review required by subsection (a) shall be declas-
3 sified unless they contain information the release of which
4 could reasonably be expected to—

5 “(1) identify a confidential human intelligence
6 source;

7 “(2) reveal information not publicly available
8 that would clearly assist in the development or use
9 of weapons of mass destruction;

10 “(3) reveal information not publicly available
11 that would clearly impair United States cryptologic
12 systems or activities; or

13 “(4) violate a statute, treaty, or international
14 agreement.

15 “(c) EXPEDITED REVIEW.—For purposes of making
16 the determination required by subsection (b), if the docu-
17 ment or material has been classified pursuant to this title
18 and has been marked pursuant to subsection 803(d)(3)
19 as not containing information falling within one or more
20 of the categories established by subsection (b), the docu-
21 ment or material shall be declassified without further re-
22 view by the originating agency, except that where an origi-
23 nating agency determines that the document or material
24 concerned should have been marked as containing such in-

1 formation, the originating agency may treat such docu-
2 ment or material in accordance with subsection (d).

3 “(d) TREATMENT OF EXEMPTED DOCUMENTS.—
4 Wherever documents and materials subject to review in
5 accordance with subsection (a) are found to contain infor-
6 mation which falls into one of the categories set forth in
7 subsection (b), the originating agency shall—

8 “(1) assign a specific date or event upon which
9 the document or material shall be reevaluated for
10 declassification, except that such date or event shall
11 be no later than 5 years after the date of the initial
12 review;

13 “(2) set aside in one physical location a copy of
14 the documents and materials determined to contain
15 such information;

16 “(3) establish a system which facilitates the
17 continuous review of such documents or materials at
18 the date or event assigned (which shall not exceed
19 5-year intervals) until the document or material is
20 declassified; and

21 “(4) report annually to the senior oversight offi-
22 cial appointed by the President pursuant to section
23 812 regarding the volume and status of such docu-
24 ments and materials.

1 **“SEC. 811. SPECIAL DECLASSIFICATION REVIEWS FOR**
2 **TOPICS OF HISTORICAL INTEREST.**

3 “In addition to the declassification reviews required
4 by sections 809 and 810, the President shall establish pro-
5 cedures pursuant to section 814 to provide for special de-
6 classification reviews to be undertaken by affected depart-
7 ments and agencies of the executive branch leading to the
8 declassification of information regarding topics of signifi-
9 cant and current historical interest. Such procedures shall,
10 at a minimum—

11 “(1) provide for the appointment of a National
12 Security Historical Advisory Panel, consisting of
13 representatives from the public and private sector,
14 that shall, after appropriate consultations with af-
15 fected departments and agencies, historians, archi-
16 vists, and others with interests in the classified
17 records concerned, be authorized to direct, consistent
18 with available resources, special governmentwide de-
19 classification reviews of classified documents and
20 materials relating to topics of significant and cur-
21 rent historical interest;

22 “(2) provide that special reviews ordinarily will
23 be limited to topics or events which occurred more
24 than 25 years in the past unless the Panel deter-
25 mines an overriding public interest in undertaking
26 such a review of a more recent event or topic;

1 “(3) give precedence, where necessary, in terms
2 of the use of available resources, to the accomplish-
3 ment of special reviews, over the accomplishment of
4 declassification reviews required by section 810; and

5 “(4) direct departments and agencies to provide
6 such support to special reviews as may be necessary
7 to meet the objectives established by the Panel.

8 **“SEC. 812. OVERSIGHT.**

9 “(a) APPOINTMENT.—(1) A senior oversight official
10 shall be appointed by the President, by and with the advice
11 and consent of the Senate, who shall be responsible for
12 monitoring the overall implementation of this title within
13 the executive branch and shall report annually to the
14 President and to the appropriate committees of the Con-
15 gress with respect to the operation of this title, together
16 with any recommendation for statutory or regulatory
17 change. Such official shall also be authorized to consider
18 and take appropriate action with respect to complaints
19 and suggestions from persons within or outside the Gov-
20 ernment with respect to the administration of this title,
21 including the declassification of information which has
22 been improperly classified.

23 “(2) Nothing in this section establishes a legal right
24 or entitlement for any person within or outside the Gov-
25 ernment, nor subjects the official appointed pursuant to

1 this section to suit in any court of law to require perform-
2 ance under this title.

3 “(b) ACCESS TO CLASSIFIED INFORMATION.—The
4 senior oversight official appointed pursuant to subsection
5 (a) shall have access to such classified information as may
6 be required for the performance of his or her duties.

7 “(c) DESIGNATED AGENCY OFFICIALS.—The head of
8 each originating agency shall designate a senior agency
9 official who shall have overall responsibility within the
10 agency for the implementation of this title. Each such offi-
11 cial shall keep the senior oversight official appointed pur-
12 suant to subsection (a) fully and currently informed with
13 respect to the implementation of this title within his or
14 her respective department or agency, including the report-
15 ing of any violations of this title which may have been
16 identified and the remedial actions taken as a result.

17 “(d) CHALLENGES TO CLASSIFICATIONS.—Any au-
18 thorized holder of classified information who, in good
19 faith, believes that such information should not be classi-
20 fied or should be classified at a different level, may chal-
21 lenge the classification status in accordance with regula-
22 tions to be promulgated by the President pursuant to sec-
23 tion 814. Such regulations shall, at a minimum, assure
24 that—

1 “(1) individuals are not subject to retribution
2 for bringing such challenge;

3 “(2) an opportunity is provided for review of
4 such challenge by an impartial official; and

5 “(3) the right to appeal the decision of such of-
6 ficial to a higher level is guaranteed.

7 **“SEC. 813. SANCTIONS.**

8 “(a) UNLAWFUL CLASSIFICATION ACTIVITY.—Per-
9 sons with authorized access to classified information who
10 are determined to have—

11 “(1) knowingly and willfully classified informa-
12 tion in violation of section 802 of this title;

13 “(2) knowingly and willfully continued a classi-
14 fication in violation of sections 808 and 809 of this
15 title; or

16 “(3) demonstrated reckless disregard in apply-
17 ing the classification criteria of section 802 of this
18 title,

19 shall be removed from access to classified information and
20 shall be subjected to disciplinary actions that may include
21 official reprimand, suspension without pay, or removal
22 from employment, as may be appropriate.

23 “(b) UNLAWFUL DISCLOSURE.—Persons with au-
24 thorized access to information classified pursuant to this
25 title who knowingly and willfully disclose such information

1 to an unauthorized person shall, in addition to incurring
2 potential criminal liability under chapter 37 of title 18,
3 United States Code, or section 4 of the Subversive Activi-
4 ties Control Act of 1950 (50 U.S.C. 783), be removed
5 from access to classified information and shall be sub-
6 jected to disciplinary actions that may include official rep-
7 rimand, suspension without pay, or removal from employ-
8 ment, as may be appropriate.

9 **“SEC. 814. IMPLEMENTATION.**

10 “(a) REGULATIONS REQUIRED.—Not later than 180
11 days after the date of enactment of this Act, the President
12 shall issue regulations to implement this title with respect
13 to agencies of the executive branch. Such regulations shall
14 take effect 1 year after the date of enactment of this Act.

15 “(b) PROCEDURES.—Pursuant to subsection (a), the
16 President shall, at a minimum—

17 “(1) require the heads of departments and
18 agencies to appoint a senior agency official to direct
19 and administer this title;

20 “(2) require the heads of departments and
21 agencies to identify by category information origi-
22 nated by their respective agencies which meets the
23 criteria for classification established by this title,
24 and to issue appropriate regulations, consistent with

1 this title, to require the classification of such infor-
2 mation by their employees; and

3 “(3) require that the systems established by law
4 or regulation for evaluating the performance of civil-
5 ian or military personnel or contractors include the
6 management and handling of classified information
7 as a critical element or item to be evaluated in the
8 rating of all persons whose duties involve the cre-
9 ation or handling of such information.

10 “(c) PROCEDURES WITHIN THE LEGISLATIVE AND
11 JUDICIAL BRANCHES.—After the issuance of the regula-
12 tions required by subsection (a), the Majority and Minor-
13 ity Leaders of the Senate, the Speaker and Minority Lead-
14 er of the House of Representatives, and the Director of
15 the Administrative Office of the United States Courts,
16 shall ensure that procedures exist within their respective
17 bodies to provide comparable protection to information
18 classified pursuant to this title which may be provided by
19 the executive branch for the conduct of their respective
20 functions.

21 **“SEC. 815. EFFECT ON INFORMATION PREVIOUSLY CLASSI-**
22 **FIED PURSUANT TO EXECUTIVE ORDER.**

23 “(a) REDESIGNATION NOT REQUIRED.—Information
24 classified pursuant to Executive order before the effective

1 date of this Act shall retain the classification assigned
 2 without redesignation pursuant to section 803 of this title.

3 “(b) DECLASSIFICATION OF PREVIOUSLY CLASSI-
 4 FIED INFORMATION.—(1) Information previously classi-
 5 fied as ‘CONFIDENTIAL’, pursuant to Executive order,
 6 which is subject to a request pursuant to section 809 of
 7 this title, shall, if more than 5 years old, be declassified
 8 and furnished to the requester. If less than 5 years old,
 9 such information shall be treated as ‘SECRET’ informa-
 10 tion for purposes of this title until it reaches 5 years of
 11 age and the requester shall be advised of the date of de-
 12 classification.

13 “(2) Declassification of information previously classi-
 14 fied as ‘SECRET’ or ‘TOP SECRET’, pursuant to Execu-
 15 tive order, in response to a request or review made after
 16 the effective date of this title, shall be governed by the
 17 provisions of this title, regardless of the duration of classi-
 18 fication or conditions for declassification previously pro-
 19 vided by Executive order.”.

20 **SEC. 4. EFFECTIVE DATE.**

21 The amendments made by sections 2 and 3 of this
 22 Act shall take effect 1 year after the date of enactment
 23 of this Act.

○

S 1885 IS——2

S 1885 IS——3